



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 21, 1996

Ms. Karen E. Adams  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
City Hall  
Dallas, Texas 75201

OR96-0219

Dear Ms. Adams:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38285.

The City of Dallas (the "city") received a request for information concerning a juvenile offender. You contend that the requested information is excepted from required public disclosure under section 552.101 of the Government Code as information made confidential by law.

We note that the city received the request for information on January 4, 1996. You did not seek a determination from this office concerning the requested information until January 18, 1996. *See* Gov't Code § 552.308 (timeliness of action by mail). A governmental body wishing to withhold requested information must seek a determination from this office within ten calendar days of receiving the request for information. *Id.* § 552.301(a). You did not seek a determination from this office within the mandatory ten day deadline. Where requests are not made within ten days, the information is presumed to be public. Open Records Decision No. 319 (1982). A governmental body must show a compelling reason to overcome this presumption, that is, that the information is confidential under some other source of law or that third-party privacy interests are at stake. *Id.*; *see Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). As you have raised a compelling reason for withholding the requested information, we will address your request.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You contend that Family Code sections 58.007, 58.102, and 58.106 make the requested information confidential. The sections

you cite were added by the Seventy-fourth legislature. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 53, 1995 Tex. Sess. Law Serv. 2517, 2552-53, 2555. However, these amendments apply only to conduct that occurs on or after January 1, 1996. *Id.* § 106, 1995 Tex. Sess. Law Serv. at 2591. "Conduct that occurs before January 1, 1996, is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose." *Id.* The requested information concerns conduct that occurred before January 1, 1996. Accordingly, the sections you raised do not apply to the requested information.

At the time the conduct occurred, the applicable law in effect was Family Code section 51.14 which provided, in pertinent part:

(d) Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records-[concerning a child] are not open to public inspection nor may their contents be disclosed to the public.

Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852, *repealed by* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Sess. Law Serv. 2517, 2590. In Open Records Decision No. 181 (1977) at 2, this office held that former section 51.14(d) excepts police reports which identify juveniles or furnish a basis for their identification. *See also* Open Records Decision No. 394 (1983) at 4-5 (applying former Fam. Code § 51.14(d) to "police blotter" and related information). You do not indicate that the offense reports at issue here relate to charges for which the city transferred the juvenile under section 54.02 of the Family Code<sup>1</sup> to a criminal court for prosecution, nor that article 15.27 of the Code of Criminal Procedure<sup>2</sup> applies. Moreover, we do not understand any of the exceptions to former section 51.14(d) to apply here. *See* Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852 (*repealed* 1995) (former Fam. Code § 51.14(d)(1), (2), (3)). Accordingly, we conclude that the city must withhold the requested information in its entirety under section 552.101 of the Government Code as information deemed confidential by law.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous

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<sup>1</sup>Act of May 25, 1973, 63d Leg., R.S., ch. 544, § 1, 1973 Tex. Gen. Laws 1460, 1476-77, *amended by* Act of May 19, 1975, 64th Leg., R.S., ch. 693, §§ 15-16, 1975 Tex. Gen. Laws 2152, 2156-57 (adding subsecs. (m), (j), (k), (l)), *amended by* Act of May 8, 1987, 70th Leg., R.S., ch. 140, §§ 1-3, 1987 Tex. Gen. Laws 309 (amending subsecs. (a), (h), (j)).

<sup>2</sup>Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 1, 1993 Tex. Gen. Laws 1850-51.

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'RWSA', written over a horizontal line.

Robert W. Schmidt  
Assistant Attorney General  
Open Records Division

RWS/LBC/ch

Ref: ID# 38285

Enclosures: Submitted documents

cc: Mr. Richard L. Brooks  
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(w/o enclosures)